5. The Committee also welcomes the information indicating that article 293 of the Criminal Code was revised pursuant to act No. 405-IVQD of 29 June 2012 to provide criminal sanctions both for cruel, inhuman or degrading treatment or punishment and for torture committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. The Committee further welcomes the fact that the revision note to that article states that the concept of torture includes severe pain or suffering, whether physical or mental, intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind.

6. The Committee appreciates the efforts of the State party to develop policies, programmes and administrative measures, in response to the recommendations of the Committee, through the adoption of a second national action plan for the protection of human rights, for the period 2012-2015.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. While noting the information provided by the State party on 18 November 2010 on the implementation of the recommendations contained in paragraphs 9, 11, 12 and 26 of the Committee's concluding observations on the third periodic report of Azerbaijan (CAT/C/AZE/CO/3), the Committee notes with regret the lack of proper responses to those recommendations.

Torture and ill-treatment

8. The Committee is concerned about numerous and persistent allegations that torture and ill-treatment are routinely used by law enforcement and investigative officials, or with their instigation or consent, often to extract confessions or information to be used in criminal proceedings. The Committee is further concerned that the State party deemed unfounded all the allegations of torture and ill-treatment raised during the dialogue, several of which had previously been addressed by other United Nations and regional human rights mechanisms. The Committee is particularly concerned that, according to the State party's report, during the period 2010-2015 not a single individual was prosecuted despite the 334 complaints against officials of the prison system for torture or ill-treatment investigated by the Prison Service between 2009 and 2013, the 984 similar complaints received by the Ministry of Internal Affairs between 2010 and 2013 and the 678 similar complaints received by the Office of the Procurator General between 2010 and 2013. In the Committee's view, the above is a strong indication that investigations into allegations of torture are not conducted in a prompt, efficient and impartial manner (arts. 4, 12-13 and 15-16).

9. **As a matter of urgency, the State party should:**

(a) **Apply a zero tolerance approach to the continuing problem of torture and to the practice of impunity;**

(b) **Provide further specific information regarding the steps taken to investigate cases of alleged torture and ill-treatment;**

(c) **Continue to provide the Committee with up-to-date data on the number of complaints received alleging torture and ill-treatment by law enforcement and**

other public officials, the number of complaints investigated by the State party, any prosecutions brought forward and any resulting convictions and sentences;

(d) **Continue to provide the Committee with data on cases in which officials have been subjected to disciplinary measures for failure to investigate complaints of torture or ill-treatment adequately or for refusal to cooperate in investigating any such complaints;**

(e) **Ensure, in law and in practice, that every person has access to independent and effective complaints mechanisms that will investigate and respond promptly; that alleged perpetrators are prosecuted and, if they are found guilty, receive sentences that are commensurate with the gravity of their acts; and that victims are afforded appropriate redress.**

Arbitrary imprisonment and ill-treatment of human rights defenders

10. The Committee is deeply concerned about consistent and numerous allegations that a number of human rights defenders have been arbitrarily deprived of their liberty, subjected to ill-treatment and, in some cases, denied adequate medical treatment in retaliation for their professional activities. Among those human rights defenders are Leyla and Arif Yunus, Ilgar Mammadov, Intigam Aliyev, Mahamad Azizov, Rashadat Akhundov and Rashad Hassanov. The Committee takes note of the fact that Mr.Yunus' incarceration had been replaced with house arrest. The Committee regrets the State party's categorical position that all the above allegations are unfounded, despite the existence of reports of the United Nations, other international organizations and human rights mechanisms indicating otherwise (see, for example, the joint statement of the Special Rapporteurs on the situation of human rights defenders, on the rights to freedom of peaceful assembly and of association, on the promotion and protection of the right to freedom of opinion and expression, on the independence of judges and lawyers, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and of the Chair-Rapporteur of the Working Group on Arbitrary Detention of 20 August 2015 and the judgement dated 22 May 2014 of the European Court of Human Rights concerning *Ilgar Mammadov v. Azerbaijan*, application No. 15172/13). It is also concerned that full, independent and effective investigations into these allegations and prosecutions of the perpetrators have not taken place. Furthermore, the Committee is seriously concerned that, following the 2009 and 2013 amendments made to the law on non-governmental organizations and the amendments made to the law on grants and the code of administrative offences, the implementation of projects without a registered grant agreement, as well as the acceptance of donations, have been punished through the dissolution of non-governmental organizations, the imposition of financial penalties, the freezing of assets and the handing down of heavy prison sentences against the members of non-governmental organizations (arts. 4, 12-13 and 16).

11. **The State party should:**

(a) **Investigate promptly, thoroughly and impartially all allegations of arbitrary arrest, denial of adequate medical treatment and torture or ill-treatment of human rights defenders, including those listed above, prosecute and punish appropriately those found guilty and provide victims with redress;**

(b) **Release human rights defenders who have been deprived of their liberty in retaliation for their human rights work;**

(c) **Amend and bring into line with international standards its legislation to facilitate the registration of human rights organizations and financial grants for the work of such organizations and change its practice to ensure that all human rights defenders are able to freely conduct their work.**

Fundamental legal safeguards

12. While taking note of the different legislative norms adopted, the Committee expresses serious concern at the State party's failure in practice to afford all persons deprived of their liberty with all fundamental legal safeguards from the very outset of the deprivation of liberty. The Committee is concerned at reports that during the period immediately following deprivation of liberty detainees are frequently denied access to a lawyer of their choice and are not allowed to contact family members and that police officers forcibly extract confessions. While welcoming the installation, in 63 of the 68 temporary detention facilities, of video surveillance systems, the introduction of medical examinations for all persons detained on remand and the practice of recording the results of the examinations in a medical record opened for each detainee immediately upon arrival, the Committee remains concerned at reports that medical examinations take place in the presence of police officers and that, when injuries are recorded, they do not lead to any investigations into possible torture or ill-treatment (arts. 2, 11-13 and 15-16).

13. **The State party should adopt measures to ensure in practice that every person deprived of his or her liberty is afforded legal safeguards against torture from the outset of deprivation of liberty. For example, it should ensure that such persons have prompt and unimpeded access to an independent lawyer of their choice, can contact a family member and can immediately undergo an independent medical examination in full confidentiality. In cases when traces of torture or ill-treatment are recorded during a medical examination, prompt and independent investigations should be conducted. The State party should also ensure that any public official who denies fundamental legal safeguards to persons deprived of their liberty is disciplined or prosecuted, and provide data to the Committee on the number of cases in which public officials have been disciplined for such conduct.**

Independence of the judiciary

14. While welcoming the extensive information provided by the State party on the functioning of the judicial system and the process of selecting judges, the Committee remains concerned at the lack of independence of the judiciary vis-à-vis the executive branch and its susceptibility to political pressure (art. 14).

15. **The Committee reiterates its previous recommendation that the State party should guarantee the full independence and impartiality of the judiciary, give practical effect to the guarantees for judicial independence laid down in its legislation and review the regime of appointment, promotion and dismissal of judges in line with the relevant international standards, including the Basic Principles on the Independence of the Judiciary.**

Independence of lawyers

16. The Committee is concerned at reports that the Bar Association operating in Azerbaijan under the lawyers and legal profession act is not sufficiently independent from the executive and that it has a limited membership; moreover, it is concerned that this has had a negative impact on the independence of the legal profession. The Committee is also concerned at reports that, on many occasions, lawyers defending human rights activists and victims of torture, including Javad Javadov and Khalid Bagirov, have been disbarred, that their licences have been suspended or that they have been called as prosecution witnesses, impeding them from representing their clients (art. 2).

17. **The State party should take steps to ensure the independence of lawyers in law and in practice and to protect lawyers from any retaliation for their work in defence of human rights activists and torture victims.**

Evidence obtained through torture

18. The Committee is concerned about numerous and consistent allegations that persons deprived of their liberty have been subjected to torture or ill-treatment for the purpose of compelling a confession, and that such confessions have subsequently been admitted as evidence in court. While noting that under article 125.2.2 of the Code of Criminal Procedure evidence obtained through the use of violence, threat, deception, torture or other cruel, inhuman or degrading acts are not admissible in criminal proceedings and recalling the decision by the plenum of the Supreme Court of 10 March 2000 providing guidance to all courts not to accept evidence obtained through the use of torture, abuse or physical or psychological coercion, the Committee is further concerned at the State party's failure to provide the Committee with information on cases in which judges have deemed confessions inadmissible on the grounds that they were obtained through torture or with data on the number of cases in which judges have sought investigations into allegations made by defendants that they confessed to a crime as a result of torture (art. 15).

19. **The State party should deliver a clear message through appropriate channels and immediately take steps to ensure that, in practice, statements made as a result of torture may not be invoked as evidence in any proceedings, except against the person accused of torture. The State party should review cases of convictions based solely on confessions, recognizing that many of these may have been based upon evidence obtained through torture or ill-treatment, and, as appropriate, provide prompt and impartial investigations and take appropriate remedial measures. The State party should ensure that any persons convicted on the basis of coerced evidence or as a result of torture or ill-treatment are afforded a new trial and adequate redress. The State party should provide the Committee with information on any cases in which confessions were deemed inadmissible on the grounds that they were obtained through torture and indicate whether any officials have been prosecuted and punished for extracting such confessions.**

Minors

20. While taking note of the State party's efforts to reform the juvenile justice system, the Committee is concerned about the reported cases of ill-treatment and torture used to obtain incriminating confessions and testimonies from minors and that no effective investigations have been conducted in respect of such allegations. The Committee is further concerned that a law on juvenile justice is yet to be adopted (arts. 2, 11 and 16).

21. **The State party should systematically ensure that minors have a lawyer and/or a trusted adult present at every phase of a proceeding, including during questioning by a police officer, whether or not the minor has been deprived of liberty. The State party should halt all practices involving abuse of minors in places of detention and punish perpetrators. The State party should enact juvenile justice legislation, including age-appropriate safeguards against torture for minors.**

National preventive mechanism

22. While welcoming the establishment of a national preventive mechanism by the Constitutional Act of 24 June 2011 and while noting the State party's affirmation that staff of the mechanism have the right to visit places of detention without prior notification, the Committee remains concerned that according to numerous reports this body has not been effective in addressing the main problematic issues related to the prevention of torture and human rights violations in places of deprivation of liberty (arts. 2 and 11-13).

23. **The Committee urges the State party to establish a national system that independently, effectively and regularly monitors and inspects all places of detention**

without prior notice, reports publicly on its findings, and raises with the authorities situations of detention conditions or conduct amounting to torture or ill-treatment. The State party should amend its legislation, regulations and policies as necessary to facilitate the reopening, granting of access to and full functioning of independent national and international human rights and humanitarian organizations in the State party. The State party should ensure that representatives of such organizations are able to carry out independent, unannounced monitoring of all places of deprivation of liberty, in accordance with their standard operating procedures.

Conditions of detention

24. While noting the information from the State party on the decrease in the number of prisoners in correctional institutions and on the improved conditions of detention in particular in the recently built facilities, the Committee is concerned at the numerous reports of abuses in custody and deaths in detention, some of which are alleged to have resulted from torture or ill-treatment. It is also concerned about the inadequate conditions of detention in prisons Nos. 6 and 14 (arts. 2, 11 and 16).

25. **The State party should take prompt measures to ensure that all instances of death in custody are promptly investigated and that those responsible for deaths resulting from torture, ill-treatment or any other illegal actions are prosecuted. The Committee reiterates its recommendation that the State party should improve the conditions of detention, in particular in prisons Nos. 6 and 14.**

Involuntary placement and conditions in psychiatric institutions

26. The Committee is concerned about continuous reports of forced confinement in psychiatric hospitals or of confinement not based on informed consent. While appreciating the information provided by the State party on the refurbishment and improvement of living conditions in certain psychiatric facilities, the Committee remains concerned at reports of verbal and sometimes physical abuse of patients, overcrowding in several mental health facilities, substandard living conditions (in Ganja and Mashtaga hospitals), insufficient food, the lack of a proper therapeutic approach and rehabilitative psychosocial activities, the lack of detailed instructions and of a harmonized registration system in respect of the use of mechanical restraints and the lack of proper judicial review in cases of involuntary hospitalization (arts. 11 and 16).

27. **The State party should take measures to ensure that verbal and physical abuse of patients is eradicated and perpetrators are adequately punished, that all psychiatric facilities provide decent living conditions to all patients, that all patients are provided with a sufficiently nutritious diet and the proper amount of food, that each patient has his or her own treatment plan and access to a full range of rehabilitative psychosocial activities, that detailed instructions on the use of any type of restraint is issued and that any use of such restraints is properly registered and monitored, that the provisions of the National Mental Health Act are duly followed, and that every patient whose involuntary placement is sought has access to free legal aid, is heard in person by a competent judge before deciding on placement and is provided a copy of the court decision.**

Violence in the armed forces

28. The Committee is concerned at the reported prevalence of violence and ill-treatment of conscripts in the army, commonly called *Dedovshchina* (hazing or bullying), which has reportedly led to serious injuries, and of unexplained deaths of conscripts, including suicides (arts. 2 and 16).

29. **The State party should initiate prompt and effective investigations into every case of non-field-related deaths, including suicides, of soldiers in the armed services, should prosecute and punish any perpetrators of actions leading to these deaths and should take measures to prevent such incidents in the future.**

Violence against women

30. The Committee appreciates the information provided on different measures designed to address violence against women, but remains concerned about reports of cases of violence against women and regrets the lack of statistical information on the overall number of complaints of domestic violence reported and the number of investigations, convictions and punishments meted out for acts of violence against women. The Committee is further concerned about reports that law enforcement officers are dismissive of women's complaints of such violence and that there are inadequate facilities available for women victims of violence in the State party. It is also concerned at the insufficient number of safe shelters for victims of domestic violence and at reports that one of the few shelters in Baku has recently been closed (arts. 2, 12-14 and 16).

31. **The State party should ensure that mechanisms are in place to encourage women victims of violence to come forward, that all allegations of violence are promptly, thoroughly and effectively investigated, that perpetrators are held accountable and that women victims of violence obtain adequate redress, including compensation and rehabilitation. The State party should compile information on the number of cases of domestic violence that have been reported, the number of such complaints that have been promptly, impartially and independently investigated, the number of investigations that have led to trials and the outcomes of the trials, including the punishment meted out and the compensation provided to victims. The State party should provide for the protection of victims, access to medical, social and legal services, temporary accommodation, and compensation and rehabilitation.**

Trafficking

32. While noting with satisfaction the measures taken by the State party to combat trafficking in human beings, the Committee remains concerned at reports concerning the need to achieve full implementation of such measures in Azerbaijan (arts. 2, 10, 12 and 16).

33. **The State party should ensure that legislation on trafficking is fully enforced and should continue its efforts to prevent, investigate, prosecute and convict persons found responsible, including any government officials complicit in trafficking.**

Non-refoulement

34. The Committee is concerned at reports of individuals falling outside the scope of asylum applications proceedings who do not enjoy the protection of the law. It is concerned about cases of extraordinary rendition based on bilateral extradition agreements, such as the rendition of Chechens to the Russian Federation, where they may face a real risk of torture. The Committee notes the State party's assertion that it has never participated in the secret rendition programme of the Central Intelligence Agency, but remains concerned at reports that it had allegedly permitted the use of its airports and airspace for the purpose of extraordinary rendition. The Committee regrets the lack of information on: (a) cases where individuals have claimed that their extradition should be refused, in accordance with article 3.2.2 of the Extradition of Offenders Act, because there were sufficient grounds to believe that the individual concerned would be subjected to torture, cruel, inhuman or degrading treatment or punishment; and (b) the outcome of such cases (art. 3).

35. **The State party should take all measures necessary to ensure that individuals who may face a risk of torture in their countries of origin are not returned, extradited or deported to those countries. The State party should ensure that persons whose applications for asylum have been rejected can lodge an effective appeal with suspensive effect. The State party should compile and provide the Committee with detailed statistical data, disaggregated by country of origin, on the number of persons who have requested asylum or refugee status, and the outcomes of those applications, as well as the number of expulsions, deportations or extraditions that have taken place and the countries to which individuals were returned.**

Training

36. The Committee welcomes the information from the State party on the training on human rights and prohibition of ill-treatment introduced for prison staff and police officers at temporary detention facilities and the seminars organized by the Central Medical Authority of the Ministry of Justice for medical staff of correctional institutes on the topic of torture and other cruel, inhuman or degrading treatment or punishment. The Committee, however, regrets the limited information available on monitoring and evaluation of these training programmes and the lack of information available on the impact of the training conducted for all relevant officials, including law enforcement officials, prison staff and border guards (art. 10).

37. **The State party should further develop educational programmes to ensure that all officials, including law enforcement officials, prison staff and border guards, are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated and that offenders will be prosecuted. All relevant medical personnel should receive specific training on how to identify signs of torture and ill-treatment. The Committee recommends that the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) become an integral part of the training provided to all personnel involved in the detention or imprisonment of persons, as well as to all personnel involved in the investigation and documentation of torture. Furthermore, the State party should develop and implement a methodology to assess the effectiveness and impact of such training and educational programmes on the reduction of cases of torture, violence and ill-treatment.**

Redress for victims of torture

38. The Committee is concerned that, according to the information from the State party, it has not awarded or provided any redress or rehabilitation to victims of torture during the reporting period, despite legal provisions providing for victims' rights to material and moral rehabilitation (art. 14).

39. **The State party should ensure that victims of torture obtain redress and rehabilitation and have an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible. The Committee draws the attention of the State party to general comment No. 3 (2012) on the implementation of article 14 of the Convention, in which the Committee explains the content and scope of the obligations of States parties to provide full redress to victims of torture and recommends amending the domestic legislation accordingly.**

Follow-up procedure

40. **The Committee requests the State party to provide, by 9 December 2016, information on follow-up to the Committee's recommendations related to the eradication of widespread torture and ill-treatment, the eradication of arbitrary**

imprisonment and alleged torture of human rights defenders, and respect of fundamental legal safeguards (see paras. 9, 11 and 13 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

41. **The Committee invites the State party to consider ratifying the core United Nations human rights treaties to which it is not yet party, namely the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

42. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.**

43. **The State party is invited to submit its next periodic report, which will be its fifth, by 9 December 2019. To that end, and considering that the State party has accepted to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting.**